

# South Dakota Board of Technical Education

## *Separate LEA Petition Subcommittee*

Petition Consideration Process, Timelines

December 3, 2019

### **Background**

On May 7, 2019, the Rapid City Area Schools (RCAS) Board of Education adopted a resolution to petition the South Dakota Board of Technical Education for the establishment of a distinct, separate local education agency (LEA) to govern Western Dakota Technical Institute (WDTI). South Dakota state law authorizes a South Dakota school district and/or postsecondary technical institute to file such a petition and requires Board approval of the petition before the creation of a new, separate LEA.<sup>1</sup>

On May 15, 2019, the South Dakota Board of Technical Education (the “Board”) established a Separate LEA Petition Subcommittee (the “Subcommittee”). The Subcommittee is charged with developing recommendations for the criteria on which a petition will be considered. The Subcommittee was also charged with recommending a consideration process and timelines for approval or rejection of the petition. The Board has broad latitude in its consideration process. The recommended petition criteria and petition consideration process are intended to be universal, to be applied to any and all petitions submitted by any South Dakota school district and/or postsecondary technical institute. This document is meant to recommend policies for the Board to adopt.

### **Goals of Consideration Process**

The Board should pursue three separate goals in its petition consideration process:

1. Due diligence in reviewing any petition to establish a separate LEA,
2. Clarity and expediency for the petitioner(s), and
3. Transparency for the public to understand the separation and provide a forum for public input.

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<sup>1</sup> SDCL 13-39A-35

## **Recommended Petition Consideration Process**

### **Receipt of Petition**

After receiving a petition to establish a separate LEA, the Board, through its Executive Director, should provide the petitioner(s) with notice of receipt and set forth its timeline for consideration. The Board should give the petitioner(s) notice of its consideration timeline and process to be used within ten (10) days of receiving the petition.

### **Consideration Procedures**

The Board should consider the use of an Executive Director recommendation and public hearing in coming to its decision as to whether to approve the petition. These roles will help the Board to meet its goals of due diligence, clarity, and transparency.

An Executive Director recommendation will put the primary burden of reviewing and vetting the petition on the Executive Director. The petition will still be provided to all Board Members to consider. The Executive Director would have the ability to seek more information from the petitioner(s) in certain areas without needing formal re-inquiry by the Board. In this way, the consideration process can keep moving in an expedient fashion. The Executive Director's recommendation should be in writing and provide the Board with the relative strengths and weaknesses of the petition as well as an assessment of whether separation would be beneficial or detrimental to the technical institute system as a whole.

The Board should hold a public hearing in the community of the petitioner(s), during which testimony can be heard from the petitioner(s) and community members. At this time, the Board will have a chance to ask public questions of the petitioner(s) as to the petition. The public hearing will be an opportunity for the community to observe and weigh in on the decision. It will also be an opportunity for the Board to fulfill its duty of diligence in probing the answers to the petition.

### **Timelines**

The timelines established for consideration of each petition may vary based on the prior work and general situation of the petitioner(s). Each petition should be considered in an expedient fashion, while permitting a thorough, diligent review. The petition consideration timeline must, as previously noted, be made clear to the petitioner(s) as soon as the petition is submitted.

# **South Dakota Board of Technical Education**

## *LEA Petition Subcommittee*

### Criteria for Petition to Create Separate, Distinct LEA

#### **1. Rationale for Creation of Separate, Distinct LEA (“new LEA”)**

- a. Process Prior to Petition
- b. Benefits of Creating new LEA
- c. Risks or Drawbacks to Creating a new LEA
- d. Community Input and/or Partner Organizations

#### **2. Current School District (“District”) Role in Technical Institute (“TI”)**

- a. Oversight Roles (Board vs. Superintendent vs. TI President)
- b. Services Provided by District to TI
- c. Compensation Paid by TI to District for Services
- d. Funds Provided by District to TI (Loan or Transfer)
- e. Contracts Held by District to be Transferred to new LEA
- f. Liabilities, Debts and Obligations Held by District to be Transferred to new LEA
- g. Assets Held by District to be Transferred to new LEA

#### **3. Transition Proposal to South Dakota Board of Technical Education**

- a. Budget and Finance
  - i. Budget-Setting
  - ii. Tuition and Fee Processing
  - iii. Obligation Recovery
  - iv. Perkins Funding and Federal Receipt Processes
  - v. State Funding and SD DOE Receipt Process
  - vi. South Dakota Board of Technical Education Consultation
  - vii. Accounting and Audit
- b. Personnel
  - i. Human Resources Services
  - ii. Healthcare Benefits
  - iii. Retirement Benefits
  - iv. Payroll
  - v. Timekeeping
  - vi. Contract Negotiation
- c. Administration
  - i. Information Technology (IT)
    1. E-mail System
    2. Equipment
    3. Software Systems
    4. Maintenance and Repair
    5. Data Management
    6. Cybersecurity
  - ii. Insurance
    1. Liability
    2. Casualty
    3. Automobile
    4. Workers’ Compensation
    5. Unemployment

- iii. Procurement
- iv. Fleet and Travel
- v. Security
- vi. Buildings and Grounds Maintenance
- vii. Legal Services & Risk Management
- viii. Compliance Monitoring
  - 1. FERPA
  - 2. Higher Learning Commission
  - 3. Industry Accreditation
- d. Scholarships and Sponsorships
  - i. Build Dakota Scholarship
  - ii. Local Scholarships
  - iii. Sponsor Recruitment and Development
  - iv. Foundation Affiliation
- e. Asset Transfer
  - i. Real Property, including Bonds, Leases, and other Encumbrances
  - ii. Supplies, Furniture, and Equipment
  - iii. Maintenance and Repair
- f. New LEA Board
  - i. Board Membership Selection
  - ii. Board Meetings and Board Support
  - iii. Program Review
  - iv. Policy-Setting and Review
  - v. President Selection and Evaluation
  - vi. Relationship with State Board of Technical Education
- g. HLC Compliance
  - i. Provide Application for Change of Control, Structure or Organization [HLC Requires Application and Approval for a Management Change]
  - ii. HLC Approval Factors:
    - 1. Extension of the Mission
    - 2. Continuation and Maintenance of the Institution
    - 3. Continue to meet HLC Eligibility Requirements, Assumed Practices, and Criteria for Accreditation
    - 4. Sufficiency of Financial Support
    - 5. Previous Experience of new Board Members

*For each of the topics under Heading (3), the Petitioner(s) shall provide:*

- A. Transition Plan for Task, including Current Method and Plan for Post-Separation*
- B. Current Task Lead and Planned Post-Separation Task Lead, including Name and Title*
- C. Current Expense and FTE and Planned Post-Separation Expense and FTE*
- D. Timeline for Transition from District to new LEA*

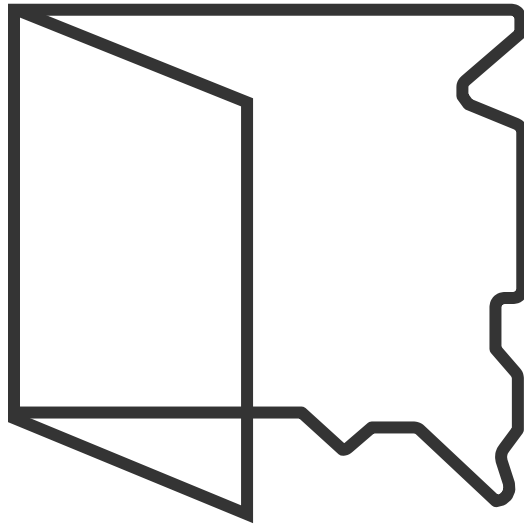
#### **4. Post-Transition Administration**

- a. Organizational Chart
- b. Projected Budget, including FTE
- c. Timeline for Full Transition
- d. Relationship with District
- e. Relationship with State Board of Technical Education

**Petition Criteria**

**for**

**Establishment of Separate, Distinct  
Local Education Agency**



South Dakota Board of  
**Technical Education**

## **I. Introduction**

The primary goal of the petition process is due diligence in the Board's oversight capacity over the postsecondary technical institutes.

The following will provide the criteria to be included in any petition submitted by a South Dakota school district and/or postsecondary technical institute to the Board of Technical Education (the "Board") for the establishment of a separate, distinct local education agency ("new LEA") to oversee the postsecondary technical institute. South Dakota state law authorizes a school district and/or postsecondary technical institute to file such a petition and requires Board approval of the petition before the creation of a new LEA.<sup>1</sup>

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<sup>1</sup> SDCL 13-39A-35

## **II. Petition Criteria**

The Petition criteria are grouped into four areas: Rationale for Separation, Current School District Role in Technical Institute, Transition Proposal, and Post-Transition Administration.

For each of the Petition criteria, please provide any exhibits or other documents that would be helpful to the Board in understanding your Petition.

### **A. Rationale for Creation of Separate, Distinct LEA**

1. Please explain the anticipated benefits of creating a new LEA. In particular, please explain the projected impact on budgets, student population, and student success.
2. Please explain the anticipated drawbacks or risks of creating a new LEA.
3. Please explain the process undertaken by the petitioner(s) prior to any formal decision to submit a Petition to the Board for the creation of a new LEA. Please identify the factors considered, parties involved, and timeline of said process. Further, please provide any and all materials related to this process that were considered by the final decision-maker(s).
4. Please provide a list of all community input sought prior to the formal decision to submit a Petition. Further, please provide any state or local leaders, entities, or partner organizations that have formally endorsed the creation of a new LEA.

## **B. Current School District Role in Technical Institute**

*This subsection deals exclusively with the governance of the technical institute prior to the creation of a new LEA. It is intended to examine the arrangement as it currently exists. Please provide all answers with the most current available information.*

1. Please explain the relative oversight roles of the school board, superintendent, and technical institute (the “TI”) president. Please explain the subject areas in which the TI president is unauthorized to make without consultation or approval from the superintendent and/or school board.
2. Please provide a list and describe all services provided by the school district (the “District”) to the TI. For each, please note if the TI compensates the District for the service or if the District provides the service without compensation. Please provide a copy of any and all agreements between the District and TI with respect to compensation for such services.
3. Please identify any funds provided by the District to the TI, whether by loan or direct support.
4. Please identify all contracts held by the District that are proposed to be transferred to a new LEA.
5. Please identify all liabilities, debts, and obligations held by the District that are proposed to be transferred to a new LEA.
6. Please identify a list of all assets held by the District, whether real or personal property, that are proposed to be transferred to a new LEA.
7. Please provide an organizational chart for the District and TI.
8. Please provide the most recent two (2) annual budgets for the District and TI.
9. Please describe the District’s current relationship with the South Dakota Board of Technical Education as it pertains to the TI.



## **C. Transition Proposal for Discrete Tasks**

*For each of the following items, please provide:*

- *Transition Plan, including the current arrangement and the plan post-separation, where applicable;*
- *Lead Personnel or Contractor, currently and planned post-separation, including name, title, and whether internal or external, where applicable;*
- *Budget Impact, including funds and FTE currently allocated and anticipated post-separation; and*
- *Transition Timeline.*

### i. Budget and Finance

1. Budget and Finance Oversight, including budget-setting, accounting and audit
2. Tuition and Fee Processing
3. Obligation Recovery
4. Federal Receipt Processing, including Perkins funding
5. State Receipt Processing
6. Budget Consultation and Reporting to Board of Technical Education

### ii. Personnel

1. Human Resources Services, including grievance processing
2. Healthcare Benefits
3. Retirement Benefits
4. Payroll and Timekeeping
5. Contract Negotiation

### iii. Information Technology

1. E-mail System
2. Data and File Management
3. Equipment
4. Software Systems
5. IT Maintenance and Repair
6. Cybersecurity

### iv. Insurance

1. Liability
2. Casualty
3. Automobile
4. Workers' Compensation
5. Unemployment

v. General Administration

1. Procurement
2. Fleet and Travel
3. Security
4. Buildings and Grounds Maintenance and Repair
5. Legal Services and Risk Management

vi. Compliance Monitoring

1. Higher Learning Commission<sup>2</sup>
2. Industry Accreditation
3. Family Educational Rights and Privacy Act (FERPA)

vii. Scholarships and Sponsorships

1. Build Dakota Scholarship Administration
2. Local Scholarship Administration
3. Sponsor Development
4. Foundation Affiliation

viii. Asset Transfer

1. Real Property
2. Bond and Lease Transfer
3. Supplies, Furniture, Equipment, and Other Personal Property, including any compensation to be paid by the TI/new LEA to the District for such property

ix. Governing Board

1. New LEA Board Membership Recruitment and Selection Plan
2. Board Support
3. Program Review
4. Policy-Setting
5. President and Personnel Evaluation
6. Relationship with State Board of Technical Education

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<sup>2</sup> Please provide the Application for Change of Control, Structure or Organization that petitioner(s) intend to submit to the Higher Learning Commission and any attachments.

#### **D. Post-Transition Administration of Technical Institute**

1. Please provide the proposed organizational chart TI under the new LEA.
2. Please provide a projected annual budget for the new LEA, including FTE.
3. Please provide a projected timeline to complete the transition.
4. Please describe the anticipated relationship of the new LEA and the TI with the District.
5. Please describe the anticipated relationship of the new LEA with the South Dakota Board of Technical Education.